

To: Assessing Officers
County Equalization Directors
From: State Tax Commission

No. 16 - October 5, 1983
Village Assessors

STATE OF MICHIGAN

FRANK J. KELLEY, ATTORNEY GENERAL

TAXATION:

Impact of the status of an
uncertified village assessor upon
special assessments and assess-
ments in village

Obligation of property owner to
make payment of delinquent
village taxes and interest to
county treasurer

VILLAGES:

Action of council appointing
an uncertified person to office
of village assessor

Inasmuch as the assessments of property in an incorporated village are based upon the valuation of such property as determined by the certified township assessor, neither the council of such village nor any of its members are in violation of law when acting to appoint an uncertified person to serve as village assessor.

An uncertified person who accepts the office of assessor in an incorporated village is not in violation of law.

A property owner in an incorporated village is liable for special assessments levied by the village council, including any interest which may be due and owing.

A person owning property in a village becomes liable for payment to the county treasurer for summer taxes levied upon such property at the time the tax roll is turned over to the county treasurer, with interest accruing from March 1 of the year subsequent to the year of assessment and levy of the taxes.

Opinion No. 6162

Honorable John G. Strand
State Representative
Capitol Building
Lansing, Michigan 48909

JUL 1 1983

You have requested my opinion with respect to six questions dealing with village assessors, special assessments and taxation procedures.

(1) Would the council of an incorporated village violate 893 PA 206, § 10d or 1895 PA 3, § 8 if such council appointed as the village assessor a person not qualified as an assessor under 1893 PA 206, § 10d(1); MCLA 211.10d(1); MSA 7.10(4)(1)?

There is no doubt that assessors who perform the annual assessment function must be certified assessors. However, 1893 PA 206, § 10d applies only to assessors who are authorized to perform the assessment process. Village assessors, as noted above, do not possess this authority. Since village assessors do not perform the "annual assessment of property," it is not required that they be certified pursuant to 1893 PA 206, § 10d, supra. Contrariwise, the several township assessors who actually perform the "annual assessment of property" of villages within their townships must be certified pursuant to the mandate of 1893 PA 206, § 10d, supra.

It is my opinion, in answer to your first three questions, that inasmuch as the assessments of property in an incorporated village are based upon the valuation of such property as determined by the certified township assessor, neither the council of such village nor any of its members are in violation of law when acting to appoint an uncertified person to serve as village assessor. It is my further opinion that an uncertified person who accepts the office of a village assessor is not in violation of these statutes.

Your fourth question assumes that a village assessor determines the amount of a special assessment for garbage collection. This is not the case.

In all instances dealing with special assessments for garbage collection in villages, the rate is fixed, not by the assessor but by the village council. It is immaterial as to whether a village assessor is certified or not.

It is my opinion, therefore, in answer to your fourth question, that the liability, if any, of a property owner for special assessments levied by the village council for garbage collection in an incorporated village is not affected by the fact that the village assessor is uncertified.

In light of the answer to your fourth question, it is unnecessary to answer your fifth question.

Your last question involves two separate issues. First, at what point in time does a property owner in an incorporated village become liable to the county for summer taxes? Second, when and to what extent does a property owner in an incorporated village become liable for interest charged by the county for summer taxes.

Pursuant to 1895 PA 3, §§ 15 and 16; MCLA 69.15 and MCLA 69.16; MSA 5.1385 and MSA 5.1386, a village treasurer has control over the village assessment roll and may accept payment of the village taxes until the warrant of the president of the village expires. This warrant of the village president may be extended until the third Monday of October of any given year.

Section 18 of 1895 PA 3; MCLA 69.18; MSA 5.1388, provides, in pertinent part:

"Within 1 week after the expiration of the time limited in the warrant for the collection of the taxes levied in said roll, or within 1 week after the time to which said warrant may have been renewed or extended, if the treasurer has been unable to collect any of the taxes on his roll on real property, it shall be his duty to return all such unpaid taxes on real property to the county treasurer in the same manner and with like effect as returns by township treasurers. The taxes thus returned shall be collected in the same manner as other taxes returned to such county treasurer are collected under the provisions of the general tax laws of the state, and the same rate of interest and amount of charges shall be collected thereon,..."

From the above, it is apparent that a taxpayer in an incorporated village must pay the summer taxes to the village treasurer when the latter has possession of the tax roll and to the county

treasurer when the roll has been turned over to the county for collection. If a village treasurer fails to turn over the tax roll to the county treasurer within the time frame outlined in 1895 PA 3, § 18, supra, a taxpayer may pay the summer taxes to the village treasurer up to the time that the tax roll is actually delivered to the county treasurer.

With respect to when and to what extent a property owner in an incorporated village becomes liable for interest charged by the county, 1893 PA 206, § 59(1), as amended; MCLA 211.59(1); MSA 7.103(1), provides for tax payment and for interest to be charged on delinquent taxes returned to a county for collection. It states, in pertinent part:


"A person may pay the taxes, or any 1 of the several taxes, on a parcel or description of land returned as delinquent, or on an undivided share of a parcel or description of land returned as delinquent, with interest computed from March 1 next after the taxes were assessed at the rate of 1% per month or fraction of a month, except as provided in section 89, with 4% as a collection fee which shall be a minimum of \$1.00, except as provided in section 89, to the county treasurer of the county in which the lands are situated, at any time before they are sold...."²

Thus, delinquent summer taxes of an incorporated village returned to a county treasurer for collection begin to accrue interest on the March 1 subsequent to the year in which they were assessed and levied.

It is my opinion, therefore, that a property owner in an incorporated village becomes liable to the county treasurer for

²1893 PA 206, § 89, MCLA 211.89, MSA 7.144, provides that for certain tax years in certain counties the interest rate on delinquent taxes shall be 1.25 percent per month or fraction of a month, together with a collection fee of 4 percent of the delinquent taxes or \$2.00, whichever is greater, which amounts will be paid to the county treasurer.

summer taxes at the time the tax roll is turned over to the county treasurer for collection. It is my further opinion that interest begins to accrue therein from March 1 subsequent to the year in which the summer taxes were assessed and levied.


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